

AMENDED IN ASSEMBLY AUGUST 21, 2006

AMENDED IN ASSEMBLY JUNE 27, 2006

AMENDED IN ASSEMBLY JUNE 14, 2006

AMENDED IN SENATE MARCH 29, 2006

SENATE BILL

No. 1729

Introduced by Senator Soto

February 24, 2006

An act to amend ~~Sections 22844, 22940, and 22944~~ *Section 22940* of, to amend ~~and renumber~~, *renumber and add* Section 22942 of, ~~and~~ to add Sections 22941, ~~22942~~, 22944.5, and 22944.7 to, *and to repeal and add Section 22944 of*, the Government Code, relating to public employees' ~~health~~ benefits.

LEGISLATIVE COUNSEL'S DIGEST

SB 1729, as amended, Soto. Public employees: ~~health~~ benefits.

~~(1) The Public Employees' Medical and Hospital Care Act requires the Board of Administration of the Public Employees' Retirement System to approve health benefit plans for certain public employees and annuitants, and authorizes the board to contract with carriers offering health benefit plans. The act prohibits an employee, annuitant, or family member enrolled in a prescription drug plan under Part D of Medicare from enrolling in a board-approved health benefit plan, unless enrolled in an approved Medicare Advantage plan.~~

~~This bill would instead exempt from that prohibition an employee, annuitant, or family member enrolled in a board-approved or offered health benefit plan that provides a prescription drug plan or qualified prescription drug coverage under Part D of Medicare as part of its benefit design.~~

(2) The Public Employees' Medical and Hospital Care Act permits an employer to elect to participate in the prefunding of health care coverage for annuitants. Under that law, if an employer elects to participate in the prefunding of health care coverage for annuitants, the Board of Administration of the Public Employees' Retirement System determines the contribution rate for that employer. That law requires the board of administration to notify each employer that provides retirement benefits through the Public Employees' Retirement System of that employer's contribution rate, regardless of whether that employer participates in the prefunding of health care coverage.

This bill would revise and recast those provisions to permit the Board of Administration of the Public Employees' Retirement System to authorize an employer to participate in the prefunding of health care coverage *and other postemployment benefits* for annuitants. The bill would ~~permit the board of administration to determine the contribution rate for an employer based on information provided by that employer, as specified~~ *require a participating employer to contract with the board of administration regarding specified terms and conditions of the prefunding of health care coverage and other postemployment benefits*. The bill would require, if the board of administration terminates the prefunding plan or an employer's participation in that plan, that the board of administration retain sufficient funds to pay for health care coverage *and other postemployment benefits* for annuitants and administrative costs before paying any remaining assets to the employer.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 22844 of the Government Code is~~
- 2 ~~amended to read:~~
- 3 ~~22844. (a) Employees, annuitants, and family members who~~
- 4 ~~become eligible to enroll on or after January 1, 1985, for Part A~~
- 5 ~~and Part B of Medicare may not be enrolled in a basic health~~
- 6 ~~benefit plan. If the employee, annuitant, or family member is~~
- 7 ~~enrolled in Part A and Part B of Medicare, he or she may enroll~~
- 8 ~~in a Medicare health benefit plan.~~

~~(b) Employees, annuitants, and family members enrolled in a prescription drug plan under Part D of Medicare may not be enrolled in a board-approved health benefit plan. This subdivision does not apply to an individual enrolled in a board-approved or offered health benefit plan that provides a prescription drug plan or qualified prescription drug coverage under Part D of Medicare as part of its benefit design.~~

~~(c) This section does not apply to employees and family members that are specifically excluded from enrollment in a Medicare health benefit plan by federal law or regulation.~~

~~SEC. 2.~~

SECTION 1. Section 22940 of the Government Code is amended to read:

22940. There is in the State Treasury the Annuitants' Health Care Coverage Fund that is a trust fund and a retirement fund, within the meaning of Section 17 of Article XVI of the California Constitution. Notwithstanding Section 13340, all moneys in the fund are continuously appropriated without regard to fiscal years to the board for expenditure for the prefunding of health care coverage *and other postemployment benefits* for annuitants pursuant to this part, including administrative costs. The board has sole and exclusive control and power over the administration and investment of the Annuitants' Health Care Coverage Fund and shall make investments pursuant to Part 3 (commencing with Section 20000).

~~SEC. 3.~~

SEC. 2. Section 22941 is added to the Government Code, to read:

22941. Each participating employer shall pay an amount, determined by the board, for administrative costs of the prefunding plan established by this article. The board shall deposit in the State Treasury to the credit of the Annuitants' Health Care Coverage Fund all amounts received by the board for those administrative costs.

~~SEC. 4.~~

SEC. 3. Section 22942 of the Government Code is amended and renumbered to read:

22943. An employer authorized by the board may elect to participate in the prefunding plan established by this article.

1 ~~SEC. 5.~~

2 SEC. 4. Section 22942 is added to the Government Code, to
3 read:

4 22942. ~~(a)~~ For purposes of this article, the following
5 definitions shall apply:

6 ~~(1)~~

7 (a) “Annuitant” means any of the following:

8 ~~(A)~~

9 (1) An annuitant described in Section 22760.

10 ~~(B)~~

11 (2) A person who retires from employment with an employer
12 described in ~~subparagraph (B) of paragraph (3)~~ *paragraph (2) of*
13 *subdivision (c)* and who receives postemployment health care
14 benefits *or other postemployment benefits* from the prefunding
15 plan provided by that employer.

16 ~~(C)~~

17 (3) A surviving family member who receives postemployment
18 health care benefits *or other postemployment benefits* as a
19 beneficiary of a deceased person described in ~~subparagraph (B)~~
20 *paragraph (2)*.

21 ~~(2)~~

22 (b) “Employee” means an employee described in Section
23 22772. “Employee” also means an officer or employee of an
24 employer described in ~~subparagraph (B) of paragraph (3)~~
25 *paragraph (2) of subdivision (c)*.

26 ~~(3)~~

27 (c) “Employer” means either of the following:

28 ~~(A)~~

29 (1) An employer described in Section 22773.

30 ~~(B)~~

31 (2) An entity described in Section 22920 that has one or more
32 employees and that entity provides postemployment health care
33 benefits *or other postemployment benefits* to annuitants.

34 (d) “Other postemployment benefits” means other
35 postemployment benefits as defined in Statements 43 and 45 of
36 the Government Accounting Standards Board.

37 ~~(4)~~

38 (e) “Participating employer” means an employer that is
39 authorized and has elected to participate in the prefunding plan.

40 ~~(5)~~

1 (f) “Prefunding plan” means the Annuitants’ Health Care
2 Coverage Fund that is a trust fund *authorized to administer other*
3 *postemployment benefits plans and that is* intended to meet the
4 requirements of Section 115 of the Internal Revenue Code.

5 ~~(b) The board may, in its discretion and upon terms and~~
6 ~~conditions set by the board, authorize an employer to participate~~
7 ~~in the prefunding plan established by this article. The governing~~
8 ~~body of a participating employer shall enter into a contract with~~
9 ~~the board, setting forth the terms and conditions of that~~
10 ~~employer’s participation in the prefunding plan.~~

11 SEC. 6. Section 22944 of the Government Code is amended
12 to read:

13 ~~22944. The board may determine the contribution rate for the~~
14 ~~following fiscal year for each participating employer and shall~~
15 ~~annually transmit to each participating employer its contribution~~
16 ~~rate for the following fiscal year which would fully fund its~~
17 ~~obligations under this article. If the participating employer~~
18 ~~provides information that satisfies the standards and requirements~~
19 ~~established by the board, the board may rely on that information~~
20 ~~in determining the contribution rate of the participating~~
21 ~~employer. Nothing in this section shall require the board to~~
22 ~~perform a valuation in determining the contribution rate of the~~
23 ~~participating employer.~~

24 SEC. 5. Section 22944 of the Government Code is repealed.

25 ~~22944. The board shall annually determine the rate of~~
26 ~~contribution for the following fiscal year for each employer~~
27 ~~providing benefits pursuant to this part, regardless of whether the~~
28 ~~employer participates pursuant to this article, and shall annually~~
29 ~~transmit to each employer its contribution rate for the following~~
30 ~~fiscal year which would fully fund its obligation under this~~
31 ~~article.~~

32 SEC. 6. Section 22944 is added to the Government Code, to
33 read:

34 22944. The board may, in its discretion and upon terms and
35 conditions set by the board, authorize an employer to participate
36 in the prefunding plan established by this article. The governing
37 body of a participating employer shall enter into a contract with
38 the board, setting forth the terms and conditions of that
39 employer’s participation in the prefunding plan, including, but

1 *not limited to, funding, expenditures, and actuarial, accounting,*
2 *reporting, and investment considerations.*

3 SEC. 7. Section 22944.5 is added to the Government Code, to
4 read:

5 22944.5. (a) The board may terminate the participation of an
6 employer in the prefunding plan if any of the following apply:

7 (1) An employer elects to cease to participate in the
8 prefunding plan.

9 (2) The board finds that the participating employer has failed
10 to satisfy the terms and conditions required by this article, by
11 board rules or regulations, or by the contract between the
12 governing body of that participating employer and the board.

13 (3) The board terminates the prefunding plan.

14 (4) *The board may, in its discretion, authorize an employer to*
15 *transfer assets into or out of the prefunding plan. That transfer of*
16 *assets shall comply with all of the following:*

17 (A) *The transfer shall satisfy the terms of the contract between*
18 *the employer and the board.*

19 (B) *The transfer shall satisfy the requirements under the*
20 *applicable rules of the Governmental Accounting Standards*
21 *Board.*

22 (C) *The transfer shall satisfy the requirements of Section 115*
23 *of the Internal Revenue Code.*

24 (b) If the board terminates the participation of an employer in
25 the prefunding plan as described in paragraph (1) or (2) of
26 subdivision (a), the assets attributable to the contributions by that
27 employer shall remain in the prefunding plan, for the continued
28 payment of postemployment health care benefits *or other*
29 *postemployment benefits* granted to current and future annuitants
30 and the costs of administration, pursuant to the terms and
31 conditions of participation established by the board and as agreed
32 to by the employer.

33 (c) If the board terminates the prefunding plan as described in
34 paragraph (3) of subdivision (a), the assets attributable to the
35 contributions by participating employers shall be paid in the
36 following order:

37 (1) The board shall retain for disbursement to annuitants an
38 amount sufficient to pay the postemployment health care benefits
39 *and other postemployment benefits* for current and future
40 annuitants.

1 (2) The board shall retain for payment an amount sufficient to
2 pay reasonable administrative costs.

3 (3) After the amounts described in paragraphs (1) and (2) have
4 been retained or disbursed, the board shall pay to each employer
5 participating in the prefunding plan on the date of termination, a
6 pro rata share of the remaining assets in the prefunding plan. The
7 board shall determine that pro rata share based on the ratio that
8 the participating employer's accumulated contributions bear to
9 the accumulated contributions of all participating employers.

10 SEC. 8. Section 22944.7 is added to the Government Code, to
11 read:

12 22944.7. The board may adopt emergency regulations that
13 implement this article. Those regulations shall be adopted
14 pursuant to Chapter 3.5 (commencing with Section 11340) of
15 Part 1 of Division 3. For purposes of Section 11346.1 and
16 11349.6, the Office of Administrative Law shall deem the
17 emergency regulations adopted by the board necessary for the
18 immediate preservation of the public peace, health and safety or
19 general welfare.